

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

State of Minnesota,

Civil No. 07-086 (PAM)

Plaintiff,

v.

**ORDER**

Jerome Shawn McElmury and  
Bobbie Sue McElmury,

Defendants.

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This matter is before the Court pursuant to Defendants' Notice of Removal. Defendants were charged with driving without proof of insurance in September 2006. They were arraigned on November 1, 2006, and pled not guilty to the charges. On March 17, 2007, Defendants removed the state criminal proceeding to federal court. In their Notice, Defendants do not identify a basis for removal, but seemingly contend that the charges violate their constitutional right to travel.

Limited grounds exist for removal of a state criminal prosecution to federal court. See 28 U.S.C. § 1442 (state criminal prosecution of federal officer or agency removable); 28 U.S.C. § 1442a (state criminal prosecution of member of armed forces removable); 28 U.S.C. § 1443 (state criminal prosecution denying individual civil rights removable).<sup>1</sup> None of those grounds exist in this case. Moreover, a criminal defendant must file a notice of removal

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<sup>1</sup> To warrant removal of a case to federal court under § 1443, the defendant must show that his or her right arises under federal law providing for specific civil rights stated in terms of racial equality and he or she cannot enforce the specified federal right in state courts. Johnson v. Mississippi, 421 U.S. 213, 219 (1975).

within thirty days of the arraignment in the state court or before trial, whichever is earlier, unless the defendant shows good cause for the delay. 28 U.S.C. § 1446(c)(1). Defendants provide no reason for the untimely removal. Accordingly, **IT IS HEREBY ORDERED** that this action is **REMANDED** to Pine County District Court.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: March 27, 2007

s/ Paul A. Magnuson  
Paul A. Magnuson  
United States District Court Judge